

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ROBERT JACKSON, )  
 )  
Plaintiff, )  
 )  
v. ) No. 14 CV 08625  
 )  
BLITT & GAINES, P.C., et al., ) Chicago, Illinois  
 ) February 18, 2015  
Defendants. ) 9:17 a.m.

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE HARRY D. LEINENWEBER

APPEARANCES:

For the Plaintiff: LAW OFFICES OF MAJDI Y. HIJAZIN,  
LTD.  
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For the Defendants: BLITT AND GAINES, P.C.  
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Court Reporter: Judith A. Walsh, CSR, RDR, CRR  
Official Court Reporter  
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1 (Proceedings heard in open court:)

2 THE CLERK: 14 C 8625, Jackson versus Blitt & Gaines.

3 MR. STARZEC: Good morning, your Honor. Mark Starzec  
4 on behalf of Blitt & Gaines.

5 MR. HIJAZIN: Good morning, your Honor. Majdi  
6 Hijazin on behalf of Mr. Jackson.

7 THE COURT: All right. The defendant, a debt  
8 collector under the terms of the Fair Debt Collection  
9 Practices Act, filed a suit against plaintiff on behalf of a  
10 client to collect a debt in the Circuit Court of Cook County,  
11 First Municipal District, and obtained a monetary judgment.

12 In an attempt to collect on the judgment, defendant  
13 filed a wage garnishment against Jackson's employer in a  
14 judicial district in which apparently plaintiff does not live.  
15 The garnishment was filed in the First Municipal District, and  
16 plaintiff lives in the Sixth Municipal District.

17 As a result of the foregoing, plaintiff has sued  
18 defendant for an alleged violation of the venue provision of  
19 the FDCPA. Defendant has filed a motion to dismiss.

20 The issue in this motion is the construction of  
21 Section 1692(j) of the FDCPA which states in relevant part,  
22 "any debt collector who brings any legal action on a debt  
23 against any consumer shall bring such action only in judicial  
24 district or similar legal entity in which such consumer  
25 resides at the commencement of the action."

1 Defendant contends that a garnishment is not a legal  
2 action on a debt against a consumer but instead is a legal  
3 action against a third party employer so that the venue  
4 provision does not apply.

5 This is -- there is conflicting authority on the  
6 issue across the United States but no decision from the  
7 Seventh Circuit. Arguably, the Ninth Circuit has ruled that  
8 filing a garnishment action can violate the venue provision.  
9 See Fox versus Citicorp Credit, 15 F. 3rd 1507, while the  
10 First and Eleventh districts have reached opposite  
11 conclusions. See Smith versus Solomon & Solomon, 714 F. 3rd  
12 73 and Pickens versus Collection Services, 273 F. 3rd 1121.

13 In addition, the commentary of the FDCPA supports the  
14 conclusion that the venue provision does not control in a  
15 post-judgment enforcement proceeding. See 53 Fed. Reg. 50097,  
16 50109.

17 The reasoning is that the venue provision is  
18 necessary to protect the debtor from abusive practices in  
19 obtaining judgments. After the creditor has obtained a  
20 judgment according to law, the debtor has had an opportunity  
21 to defend on his home turf.

22 The conclusion is also supported under Illinois law  
23 which views garnishment as an action against the garnishee,  
24 not the debtor. See Finch versus Alexander County National  
25 Bank, 65 Illinois Appellate 337.

1           Many of the courts that have decided cases against  
2 the debtor on the venue issue have pointed out that a contrary  
3 holding would prevent collection efforts against the  
4 employers, banks, or other entities holding assets of the  
5 debtor who are not amenable to service of summons in the  
6 debtor's judicial district. Accordingly, the Court grants the  
7 motion to dismiss.

8           MR. STARZEC: Thank you, your Honor.

9           MR. HIJAZIN: Thank you.

10          (Proceedings adjourned at 9:21 p.m.)

11                           \* \* \* \* \*

12                           C E R T I F I C A T E

13           I, Judith A. Walsh, do hereby certify that the  
14 foregoing is a complete, true, and accurate transcript of the  
15 proceedings had in the above-entitled case before the  
16 Honorable HARRY D. LEINENWEBER, one of the judges of said  
17 Court, at Chicago, Illinois, on February 18, 2015.

18  
19          /s/ Judith A. Walsh, CSR, RDR, CRR                      February 23, 2015

20          Official Court Reporter

21          United States District Court

22          Northern District of Illinois

23          Eastern Division  
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